

AMENDED IN SENATE JULY 6, 2012
AMENDED IN SENATE JUNE 26, 2012
AMENDED IN SENATE JUNE 15, 2012
AMENDED IN SENATE JUNE 27, 2011
AMENDED IN SENATE JUNE 20, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 492

Introduced by Assembly Member Galgiani

February 15, 2011

An act to amend Section 640 of the Penal Code, and to amend Section 99580 of the Public Utilities Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 492, as amended, Galgiani. ~~Transit fare evasion: San Joaquin Regional Transit District.~~ *Public transportation agencies: administrative penalties.*

Existing law ~~establishes and prescribes the powers of the San Joaquin Regional Transit District.~~ Existing law authorizes certain transit operators to adopt and enforce an ordinance to impose and enforce civil administrative penalties for fare evasion or passenger misconduct, other than by minors, on or in a transit facility or vehicle in lieu of the criminal penalties otherwise applicable, with specified administrative adjudication procedures for the imposition and enforcement of the administrative penalties, including an initial review and opportunity for a subsequent administrative hearing.

~~This bill would authorize the San Joaquin Regional Transit District to adopt and enforce such an ordinance extend the application of these provisions to all public transportation agencies, as defined. The bill would require the penalties collected by a public transportation agency to be deposited in the general fund of the county in which the citation is administered. The bill would make conforming changes.~~

~~The bill would further require the penalties collected by the San Joaquin Regional Transit District to be deposited in the general fund of the County of San Joaquin.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 640 of the Penal Code is amended to
 2 read:

3 640. (a) (1) Any of the acts described in paragraphs (1) to (5),
 4 inclusive, of subdivision (b) is an infraction punishable by a fine
 5 not to exceed two hundred fifty dollars (\$250) and by community
 6 service for a total time not to exceed 48 hours over a period not to
 7 exceed 30 days, during a time other than during the violator’s hours
 8 of school attendance or employment. Any of the acts described in
 9 paragraphs (1) to (3), inclusive, of subdivision (c), upon a first or
 10 second violation, is an infraction punishable by a fine not to exceed
 11 two hundred fifty dollars (\$250) and by community service for a
 12 total time not to exceed 48 hours over a period not to exceed 30
 13 days, during a time other than during the violator’s hours of school
 14 attendance or employment. A third or subsequent violation of any
 15 of the acts described in paragraphs (1) to (3), inclusive, of
 16 subdivision (c) is a misdemeanor punishable by a fine of not more
 17 than four hundred dollars (\$400) or by imprisonment in a county
 18 jail for a period of not more than 90 days, or by both that fine and
 19 imprisonment. Any of the acts described in subdivision (d) shall
 20 be punishable by a fine of not more than four hundred dollars
 21 (\$400), by imprisonment in a county jail for a period of not more
 22 than 90 days, or by both that fine and imprisonment.

23 (2) This section shall apply only to acts committed on or in a
 24 facility or vehicle of a public transportation system.

25 (b) (1) Eating or drinking in or on a system facility or vehicle
 26 in areas where those activities are prohibited by that system.

1 (2) Disturbing another person by loud or unreasonable noise.

2 (3) Smoking in or on a system facility or vehicle in areas where
3 those activities are prohibited by that system.

4 (4) Expectorating upon a system facility or vehicle.

5 (5) Skateboarding, roller skating, bicycle riding, roller blading,
6 or operating a motorized scooter or similar device, as defined in
7 Section 407.5 of the Vehicle Code in a system facility, vehicle, or
8 parking structure. This paragraph does not apply to an activity that
9 is necessary for utilization of the transit facility by a bicyclist,
10 including, but not limited to, an activity that is necessary for
11 parking a bicycle or transporting a bicycle aboard a transit vehicle,
12 if that activity is conducted with the permission of the transit
13 agency in a manner that does not interfere with the safety of the
14 bicyclist or other patrons of the transit facility.

15 (c) (1) Evasion of the payment of a fare of the system. For
16 purposes of this section, fare evasion includes entering an enclosed
17 area of a public transit facility beyond posted signs prohibiting
18 entrance without obtaining valid fare, in addition to entering a
19 transit vehicle without valid fare.

20 (2) Misuse of a transfer, pass, ticket, or token with the intent to
21 evade the payment of a fare.

22 (3) (A) Unauthorized use of a discount ticket or failure to
23 present, upon request from a transit system representative,
24 acceptable proof of eligibility to use a discount ticket, in
25 accordance with Section 99155 of the Public Utilities Code and
26 posted system identification policies when entering or exiting a
27 transit station or vehicle. Acceptable proof of eligibility must be
28 clearly defined in the posting.

29 (B) In the event that an eligible discount ticket user is not in
30 possession of acceptable proof at the time of request, any citation
31 issued shall be held for a period of 72 hours to allow the user to
32 produce acceptable proof. If the proof is provided, the citation
33 shall be voided. If the proof is not produced within that time period,
34 the citation shall be processed.

35 (d) (1) Willfully disturbing others on or in a system facility or
36 vehicle by engaging in boisterous or unruly behavior.

37 (2) Carrying an explosive, acid, or flammable liquid in a public
38 transit facility or vehicle.

39 (3) Urinating or defecating in a system facility or vehicle, except
40 in a lavatory. However, this paragraph shall not apply to a person

1 who cannot comply with this paragraph as a result of a disability,
2 age, or a medical condition.

3 (4) Willfully blocking the free movement of another person in
4 a system facility or vehicle. This paragraph shall not be interpreted
5 to affect any lawful activities permitted or First Amendment rights
6 protected under the laws of this state or applicable federal law,
7 including, but not limited to, laws related to collective bargaining,
8 labor relations, or labor disputes.

9 (5) Willfully tampering with, removing, displacing, injuring,
10 or destroying any part of any facility or vehicle of a public
11 transportation system.

12 (e) Notwithstanding subdivision (a), ~~the City and County of San~~
13 ~~Francisco, the Los Angeles County Metropolitan Transportation~~
14 ~~Authority, the Southern California Regional Rail Authority, the~~
15 ~~Santa Clara Valley Transportation Authority, the Sacramento~~
16 ~~Regional Transit District, Long Beach Transit, Foothill Transit,~~
17 ~~the North County Transit District, the Alameda-Contra Costa~~
18 ~~Transit District, and the San Joaquin Regional Transit District a~~
19 *public transportation agency, as defined in paragraph (4) of*
20 *subdivision (c) of Section 99580 of the Public Utilities Code, may*
21 *enact and enforce an ordinance providing that a person who is the*
22 *subject of a citation for any of the acts described in subdivision*
23 *(b) or (c) on or in a facility or vehicle described in subdivision (a)*
24 *for which the City and County of San Francisco, the Los Angeles*
25 *County Metropolitan Transportation Authority, the Southern*
26 *California Regional Rail Authority, the Santa Clara Valley*
27 *Transportation Authority, the Sacramento Regional Transit District,*
28 *Long Beach Transit, Foothill Transit, the North County Transit*
29 *District, the Alameda-Contra Costa Transit District, or the San*
30 *Joaquin Regional Transit District public transportation agency*
31 *has jurisdiction shall, under the circumstances set forth by the*
32 *ordinance, be afforded an opportunity to complete an administrative*
33 *process that imposes only an administrative penalty enforced in a*
34 *civil proceeding. The ordinance for imposing and enforcing the*
35 *administrative penalty shall be governed by Chapter 8*
36 *(commencing with Section 99580) of Part 11 of Division 10 of*
37 *the Public Utilities Code and shall not apply to minors.*

38 (f) For purposes of this section, a “facility or vehicle of a public
39 transportation system” means any of the following:

1 (1) A facility or vehicle of a public transportation system as
2 defined by Section 99211 of the Public Utilities Code.

3 (2) A facility of, or vehicle operated by any entity subsidized
4 by, the Department of Transportation.

5 (3) A facility or vehicle of the Southern California Regional
6 Rail Authority, whether owned or leased.

7 (4) A leased or rented facility or vehicle for which any of the
8 entities described in paragraph (1), (2), or (3) incurs costs of
9 cleanup, repair, or replacement as a result of any of those acts.

10 SEC. 2. Section 99580 of the Public Utilities Code is amended
11 to read:

12 99580. (a) Pursuant to paragraph (1) of subdivision (e) of
13 Section 640 of the Penal Code, ~~the City and County of San~~
14 ~~Francisco, the Los Angeles County Metropolitan Transportation~~
15 ~~Authority, the Southern California Regional Rail Authority, the~~
16 ~~Santa Clara Valley Transportation Authority, the Sacramento~~
17 ~~Regional Transit District, Long Beach Transit, Foothill Transit,~~
18 ~~the North County Transit District, the Alameda-Contra Costa~~
19 ~~Transit District, and the San Joaquin Regional Transit District a~~
20 *public transportation agency* may enact and enforce an ordinance
21 to impose and enforce an administrative penalty for any of the acts
22 described in subdivision (b). The ordinance shall include the
23 provisions of this chapter and shall not apply to minors.

24 (b) (1) Evasion of the payment of a fare of the system.

25 (2) Misuse of a transfer, pass, ticket, or token with the intent to
26 evade the payment of a fare.

27 (3) Playing sound equipment on or in a system facility or
28 vehicle.

29 (4) Smoking, eating, or drinking in or on a system facility or
30 vehicle in those areas where those activities are prohibited by that
31 system.

32 (5) Expecting upon a system facility or vehicle.

33 (6) Willfully disturbing others on or in a system facility or
34 vehicle by engaging in boisterous or unruly behavior.

35 (7) Carrying an explosive or acid, flammable liquid, or toxic or
36 hazardous material in a system facility or vehicle.

37 (8) Urinating or defecating in a system facility or vehicle, except
38 in a lavatory. However, this paragraph shall not apply to a person
39 who cannot comply with this paragraph as a result of a disability,
40 age, or a medical condition.

1 (9) (A) Willfully blocking the free movement of another person
2 in a system facility or vehicle.

3 (B) This paragraph shall not be interpreted to affect any lawful
4 activities permitted or first amendment rights protected under the
5 laws of this state or applicable federal law, including, but not
6 limited to, laws related to collective bargaining, labor relations,
7 or labor disputes.

8 (10) Skateboarding, roller skating, bicycle riding, or roller
9 blading in a system facility, including a parking structure, or in a
10 system vehicle. This paragraph does not apply to an activity that
11 is necessary for utilization of a system facility by a bicyclist,
12 including, but not limited to, an activity that is necessary for
13 parking a bicycle or transporting a bicycle aboard a system vehicle,
14 if that activity is conducted with the permission of the agency of
15 the system in a manner that does not interfere with the safety of
16 the bicyclist or other patrons of the system facility.

17 (11) (A) Unauthorized use of a discount ticket or failure to
18 present, upon request from a system representative, acceptable
19 proof of eligibility to use a discount ticket, in accordance with
20 Section 99155, and posted system identification policies when
21 entering or exiting a system station or vehicle. Acceptable proof
22 of eligibility must be clearly defined in the posting.

23 (B) In the event that an eligible discount ticket user is not in
24 possession of acceptable proof at the time of request, an issued
25 notice of fare evasion or passenger conduct violation shall be held
26 for a period of 72 hours to allow the user to produce acceptable
27 proof. If the proof is provided, that notice shall be voided. If the
28 proof is not produced within that time period, that notice shall be
29 processed.

30 (c) (1) ~~The City and County of San Francisco, the Los Angeles~~
31 ~~County Metropolitan Transportation Authority, the Santa Clara~~
32 ~~Valley Transportation Authority, the Sacramento Regional Transit~~
33 ~~District, the Southern California Regional Rail Authority, Long~~
34 ~~Beach Transit, Foothill Transit, the North County Transit District,~~
35 ~~the Alameda-Contra Costa Transit District, and the San Joaquin~~
36 ~~Regional Transit District~~ *public transportation agency* may contract
37 with a private vendor or governmental agency for the processing
38 of notices of fare evasion or passenger conduct violation, and
39 notices of delinquent fare evasion or passenger conduct violation
40 pursuant to Section 99581.

1 (2) For the purpose of this chapter, “processing agency” means
2 either of the following:

3 (A) The agency issuing the notice of fare evasion or passenger
4 conduct violation and the notice of delinquent fare evasion or
5 passenger conduct violation.

6 (B) The party responsible for processing the notice of fare
7 evasion or passenger conduct violation and the notice of delinquent
8 violation, if a contract is entered into pursuant to paragraph (1).

9 (3) For the purpose of this chapter, “fare evasion or passenger
10 conduct violation penalty” includes, but is not limited to, a late
11 payment penalty, administrative fee, fine, assessment, and costs
12 of collection as provided for in the ordinance.

13 ~~(4) All fare evasion and passenger conduct violation penalties~~
14 ~~collected by the processing agency in the City and County of San~~
15 ~~Francisco shall be deposited to the general fund of the City and~~
16 ~~County of San Francisco.~~

17 ~~(5) All fare evasion and passenger conduct violation penalties~~
18 ~~collected by the Long Beach Transit or Foothill Transit shall be~~
19 ~~deposited in the general fund of the County of Los Angeles.~~

20 *(4) For the purpose of this chapter, “public transportation*
21 *agency” shall mean a public agency that provides public*
22 *transportation as defined in paragraph (1) of subdivision (f) of*
23 *Section 1 of Article XIXA of the California Constitution.*

24 ~~(6)~~
25 (5) All fare evasion and passenger conduct violation penalties
26 collected by the Los Angeles County Metropolitan Transportation
27 Authority pursuant to this chapter shall be deposited in the general
28 fund of the county in which the citation is administered.

29 ~~(7) All fare evasion and passenger conduct violation penalties~~
30 ~~collected by the Santa Clara Valley Transportation Authority shall~~
31 ~~be deposited in the general fund of the County of Santa Clara.~~

32 ~~(8) All fare evasion and passenger conduct violation penalties~~
33 ~~collected by the Sacramento Regional Transit District shall be~~
34 ~~deposited in the general fund of the County of Sacramento.~~

35 ~~(9) All fare evasion and passenger conduct violation penalties~~
36 ~~collected by the Alameda-Contra Costa Transit District shall be~~
37 ~~deposited in the general fund of the county in which the citation~~
38 ~~is administered.~~

39 ~~(10) All fare evasion and passenger conduct violation penalties~~
40 ~~collected by the Southern California Regional Rail Authority shall~~

1 be deposited in the general fund of the county in which the citation
2 is administered.

3 ~~(11) All fare evasion and passenger conduct violation penalties~~
4 ~~collected by the North County Transit District shall be deposited~~
5 ~~in the general fund of the County of San Diego.~~

6 ~~(12) All fare evasion and passenger conduct violation penalties~~
7 ~~collected by the San Joaquin Regional Transit District shall be~~
8 ~~deposited in the general fund of the County of San Joaquin.~~

9 (d) (1) If a fare evasion or passenger conduct violation is
10 observed by a person authorized to enforce the ordinance, a notice
11 of fare evasion or passenger conduct violation shall be issued. The
12 notice shall set forth the violation, including reference to the
13 ordinance setting forth the administrative penalty, the date of the
14 violation, the approximate time, and the location where the
15 violation occurred. The notice shall include a printed statement
16 indicating the date payment is required to be made, and the
17 procedure for contesting the notice. The notice shall be served by
18 personal service upon the violator. The notice, or copy of the
19 notice, shall be considered a record kept in the ordinary course of
20 business of the issuing agency and the processing agency, and
21 shall be prima facie evidence of the facts contained in the notice
22 establishing a rebuttable presumption affecting the burden of
23 producing evidence.

24 (2) When a notice of fare evasion or passenger conduct violation
25 has been served, the person issuing the notice shall file the notice
26 with the processing agency.

27 (3) If a person contests a notice of fare evasion or passenger
28 conduct violation, the issuing agency shall proceed in accordance
29 with Section 99581.

30 (e) In setting the amounts of administrative penalties for the
31 violations listed in subdivision (b), ~~the City and County of San~~
32 ~~Francisco, the Los Angeles County Metropolitan Transportation~~
33 ~~Authority, the Santa Clara Valley Transportation Authority, the~~
34 ~~Sacramento Regional Transit District, the Southern California~~
35 ~~Regional Rail Authority, Long Beach Transit, Foothill Transit, the~~
36 ~~North County Transit District, the Alameda-Contra Costa Transit~~
37 ~~District, and the San Joaquin Regional Transit District~~ *public*
38 *transportation agency* shall not establish penalty amounts that
39 exceed the maximum fine amount set forth in Section 640 of the
40 Penal Code.

1 (f) A person who receives a notice of fare evasion or passenger
2 conduct violation pursuant to this section shall not be subject to
3 citation for a violation of Section 640 of the Penal Code.

4 (g) If an entity enacts an ordinance pursuant to this section it
5 shall, both two years and five years after enactment of the
6 ordinance, report all of the following information to the Senate
7 Committee on Transportation and Housing and the Assembly
8 Committee on Transportation:

9 (1) A description of the ordinance, including the circumstances
10 under which an alleged violator is afforded the opportunity to
11 complete the administrative process.

12 (2) The amount of the administrative penalties.

13 (3) The number and types of citations administered pursuant to
14 the ordinance.

15 (4) To the extent available, a comparison of the number and
16 types of citations administered pursuant to the ordinance with the
17 number and types of citations issued for similar offenses and
18 administered through the courts both in the two years prior to the
19 ordinance and, if any, since enactment of the ordinance.

20 (5) A discussion of the effect of the ordinance on passenger
21 behavior.

22 (6) A discussion of the effect of the ordinance on revenues to
23 the entity described in subdivision (a) and, in consultation with
24 the superior courts, the cost savings to the county courts. The
25 superior courts are encouraged to collaborate on and provide data
26 for this report.

O